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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of:

Group Art Unit: 3714

Daniel L. McConnell, et al.

Examiner: Coburn, Corbett B.

Serial No.: 09/832,718

Attorney Docket: 069035-001

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Title: A SYSTEM AND METHOD FOR USE OF A PERSONALLY PORTABLE  
VIDEO DEVICE FOR VIEWING A LIVE EVENT

Board of Patent Appeals and Interferences  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

APPELLANT'S BRIEF UNDER 37 CFR 41.37

This brief is in furtherance of the Notice of Appeal filed in this application on June 1, 2004. This brief is further in response to the Notification of Non-Compliance with 37 CFR 1.192(c) contained in the Office Communication dated 11/26/2004. This brief is being submitted concurrently with a Petition to Revive under 37 CFR 1.137(b).

The fee for filing a brief in support of this appeal was previously paid. Authorization is hereby given to charge Deposit Account 503351 for any additional fee required hereunder.

**1. REAL PARTY IN INTEREST - 37 CFR 41.37(c)(1)(i)**

The real party in interest in this appeal is the assignee of the present application, T3D, Inc., a corporation of the State of Florida.

**2. RELATED APPEALS AND INTERFERENCES - 37 CFR 41.37(c)(1)(ii)**

There is no other appeal or interference that will directly affect, or that will be directly affected by, or that will have a bearing on the Board's decision in this appeal.

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**3. STATUS OF CLAIMS - 37 CFR 41.37(c)(1)(iii)**

Claims cancelled: 1-6 and 14-23.

Claims withdrawn but not cancelled: none.

Claims pending: 7-13 and 24-33.

Claims allowed: none.

Claims rejected: 7-13 and 24-33.

The claims on appeal are 7-13 and 24-33.

**4. STATUS OF AMENDMENTS - 37 CFR 41.37(c)(1)(iv)**

After the Final Rejection contained in the Office Communication dated 01 March 2004, an amendment was filed under 37 CFR 1.116 on 21 April 2004 and has been entered in accordance with the Office Communication dated 07 May 2004. That amendment successfully overcame the rejections under 35 USC 112 that had been presented in the Final Rejection; however, the rejections under 35 USC 103 were sustained.

**5. SUMMARY OF CLAIMED SUBJECT MATTER- 37 CFR 41.37(c)(1)(v)**

The invention generally involves a method and apparatus for wirelessly transmitting and receiving a plurality of different live action camera views of a live event directly to spectators in attendance at the event who can selectively view the transmitted live-action views with a personally portable receiver/display unit.

"Personally portable" is used in the specification to describe a device that can be individually carried or worn by the spectators who are attending the live event, for example as described on page 8, lines 6 through page 9, line 30 of the specification.

The invention further generally allows each one of the live event attendees who are using one of the personally portable units to be able to individually and randomly select from among the plurality of different live-action camera views or from non-live action predetermined content signals being transmitted simultaneously within the confines of

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the live event's viewing area, as described in the specification at page 14, line 10 through page 15, line 20. Thus, the apparatus and method of the present invention generally enhance the personal viewing experience of attendees at a live event by providing them with their personal choice from among a plurality of views of the live action which can not otherwise be seen from their assigned seat, or by providing them with a view of related content, at any time while in attendance at the live event.

Referring now to the numerals of FIG. 6, independent claim 7 includes the steps of providing cameras 122, 124, 126 at a plurality of locations within an event for producing live-action video signals 130, 132, 134; locally transmitting within the event a plurality of live-action wireless communication signals 136 corresponding to the plurality of live-action video signals; and providing to a plurality of attendees at the event a respective plurality of portable display units 140, 142 each containing a receiving device 144, 146 and a video display device 156, 158, the portable display units adapted to be worn or carried by the respective attendees at the event for simultaneously receiving the locally transmitted live-action wireless communication signals directly from the transmitters and for displaying images responsive to a live-action video signal individually selected by each of the respective attendees; respective attendees individually wearing or carrying the respective portable display units for personal viewing, only while at the event, of selected images corresponding to unaltered live-action views captured by the cameras. The subject matter defined in claim 7 is described in the specification at least at page 12, line 19 through page 15, line 30.

Independent claim 12 reads on an apparatus for providing video information comprising: at least one camera 122, 124, 126 adapted for capturing at least one live-action area of an event and for producing at least one respective live-action video signal 130, 132, 134 responsive to the at least one live-action area of the event; a transmitter 128 for transmitting at least one live-action wireless communication signal 136 corresponding to the at least one live-action video signal; a plurality of personally portable display units 140, 142 each containing a multi-channel receiving device 144, 146 and a video display device 156, 158 for receiving the at least one live-action

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wireless communication signal directly from the transmitter and for displaying unaltered live-action images responsive to the at least one wireless live-action communication signal for personal viewing of the at least one live-action area by attendees while at the event who are carrying and using a respective personally portable display unit. The subject matter defined in claim 12 is described in the specification at page 12, line 19 through page 15, line 30.

Referring now to the numerals of FIGs. 3 and 4, independent claim 24 reads on a wireless video apparatus comprising: a pair of video cameras 40 positioned adjacent each other to capture a depth-perceptive view of a scene from two different perspectives corresponding to two eyes of an observer; a transmitting device 42 connected to each video camera for transmitting a wireless video signal responsive to the view from the perspective of the respective video camera; a personally portable receiver 56 for receiving the wireless video signals; a pair of personally portable video display devices 52, 54 connected to the portable receiver and worn or carried by an observer together with the personally portable receiver for cooperatively displaying to two respective eyes of the observer respective images produced from the respective wireless video signals and observable by the observer as a true three dimensional view of the scene as though viewed by the observer from the perspective of the positioned pair of video cameras. The subject matter defined in claim 24 is described in the specification at page 7, line 4 through page 9, line 30.

Referring now to the numerals of FIG. 8, independent claim 27 reads on a method of providing video information, the method comprising: providing a plurality of cameras 202 at a plurality of locations for producing a plurality of video signals; locally transmitting closed-network wireless communication signals 208 corresponding to the plurality of video signals via a wireless communications system 210, 214; and providing a personally portable display unit containing a multi-channel receiving device 212 and a video display device 204, the personally portable display unit adapted for directly and locally receiving the closed-network wireless communication signals and for displaying images responsive to selected ones of the video signals for personal viewing by a

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person carrying the personally portable display unit. The subject matter defined in claim 27 is described in the specification at page 18, line 6 through page 19, line 8.

Referring again to the numerals of FIGs. 3 and 4, independent claim 29 reads on a wireless video apparatus comprising: a video camera 40 adapted to be positioned to capture a view of a scene; a transmitting device 42 connected to the video camera for transmitting a wireless video signal responsive to the view from the perspective of the video camera; a personally portable receiver 56 for receiving the wireless video signal directly from the transmitting device; and a personally portable video display device 52, 54 connected to and carried with the personally portable receiver by an observer for displaying to the observer an image responsive to the wireless video signal and corresponding to a view of the scene from the perspective of the camera. The subject matter defined in claim 29 is described in the specification at page 7, line 4 through page 9, line 30.

**6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL - 37 CFR 41.37(c)(1)(vi)**

- A) Claims 7, 8, 12, 13 and 24-32 stand rejected under 35 USC 103(a) over Simonelli (U.S. Patent 4,817,948) in view of Yoshimatsu (U.S. Patent 6,326,994).
- B) Claims 9-11 and 33 stand rejected under 35 USC 103(a) over Simonelli (U.S. Patent 4,817,948) in view of Yoshimatsu (U.S. Patent 6,326,994) and in view of official notice that the profit motive is well known and that displaying advertising is well known.

**7. ARGUMENT - 37 CFR 41.37(c)(1)(vii)**

- A) With regard to the rejection of claims 7, 8, 12, 13 and 24-32 as being unpatentable under 35 USC 103(a) over Simonelli (U.S. Patent 4,817,948) in view of Yoshimatsu (U.S. Patent 6,326,994), the appellant submits that the combination of Simonelli and Yoshimatsu fails to describe all of the limitations of any of these claims. Claim 7 is discussed below as representative of the group.

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Independent claim 7 includes the limitations of "providing to a plurality of attendees at the event a respective plurality of portable display units each containing a multi-channel receiving device and a video display device, the portable display units adapted to be worn or carried by the respective attendees."

The combination of Simonelli and Yoshimatsu does not describe such a combination of elements. The Examiner admits on page 2 of the Office Communication dated 05/07/2004 that the device of Simonelli is movable but is not personally portable. The Examiner thus combines Simonelli with the head mounted display (goggles) of Yoshimatsu. However, the goggles of Yoshimatsu are for display only and do not include a receiving device. Except for the display element, the device of Yoshimatsu is non-portable. Yoshimatsu does not describe a portable receiving device nor a portable receiver/display combination. Thus, the combination of Yoshimatsu with Simonelli fails to yield the claimed device that contains a portable receiver/display combination and allows freedom of personal movement while viewing a personally selected image at a live event. Because the combination of Yoshimatsu and Simonelli lacks this material limitation of each of the rejected claims, the rejection of claims 7, 8, 12, 13 and 24-32 under 35 USC 103 should be withdrawn.

B) With regard to the rejection of claims 9-11 and 33 as being unpatentable under 35 USC 103(a) over Simonelli (U.S. Patent 4,817,948) in view of Yoshimatsu (U.S. Patent 6,326,994) in view of official notice that the profit motive is well known and that displaying advertising is well known, the appellant submits that the combination of Simonelli and Yoshimatsu and official notice fails to describe all of the limitations of any of these claims. Since these claims include three groups that include patentably distinct limitations, each of the three groups of claims is discussed separately below.

i) Claim 9 (first group): Claim 9 depends from claim 7 and includes the further limitations of "offering the portable display units for rent to the attendees for use to enhance views available to the attendees from their respective designated viewing areas to a preferred viewing location during the

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event." While the appellant agrees generally that the profit motive is well known, there is no teaching or suggestion in the prior art of the claimed method of providing unaltered live-action remote-viewing entertainment to attendees at a live event wherein additional revenue is generated by allowing attendees to rent an enhanced view of the live event from their designated viewing area. The prior art actually teaches away from such a method because the viewing location is fixed with the seat arrangement, and seats with less desirable viewing perspectives are normally sold at a lower price when compared to seats with a more desirable viewing perspective. The method of claim 9 overcomes this commercial limitation by providing a method that enables the purveyor of live entertainment to augment the revenue stream without changing seating arrangements. The combination of official notice with Simonelli and Yoshimatsu fails to teach such a combination of method steps. Thus, the rejection of claim 9 is not supported by the prior art and should be withdrawn.

ii) Claims 10 and 11 (second group): Claims 10 and 11 each depend from claim 7 and include somewhat different limitations directed to transmitting wireless communications signals corresponding to content different than the video signals produced by the cameras. In particular, claim 10 includes the limitation of "transmitting closed wireless network communications signals corresponding to predetermined content different than the video signals produced by the cameras via the wireless communications system for selected alternative viewing by the attendees while at the event." Claim 11 includes the limitation of "transmitting wireless communications signals corresponding to advertising content via the wireless communications system for viewing by the attendees while at the event." These two claims are argued together for the purposes of this appeal, with claim 10 selected as being representative. It is noted that claims 10 and 11 are separately patentable from claim 9 and are therefore argued separately here due to the distinct limitations therein.

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With regard to the patentability of claim 10, there is no teaching or suggestion in the prior art of the claimed method of transmitting a combination of camera views and other different content for selected viewing by attendees at a live event. Both Simonelli and Yoshimatsu teach only the transmitting of signals corresponding to the video signals produced by the cameras. In spite of the fact that displaying advertising is known, there is no suggestion in the cited prior art to transmit different content together with the camera views in order to allow the attendee to select for alternative viewing either a camera view or the different content. The prior art teaches away from this claimed combination because different content, typically advertising, is transmitted in the prior art in lieu of program content during an advertising slot when camera views are not available to the observer. Thus, the limitation of claim 10 that allows for selected alternative viewing of the camera view or the different content by the attendees while at the event is not taught or made obvious by the cited prior art. Thus, the rejection of claims 10 and 11 is not supported by the prior art and should be withdrawn.

iii) Claim 33 (third group): Claim 33 depends from claim 7 and includes the further limitations of "transmitting wireless communications signals corresponding to predetermined content different than the video signals via the wireless communications system for selected viewing by the attendees; and offering the portable display units for rent to attendees for use during the event at a price responsive to the selected content." Claim 33 is separately patentable from claims 9, 10 and 11, which are subject to the same grounds for rejection, and is therefore argued separately here due to the distinct limitations therein.

With regard to the patentability of claim 33, both Simonelli and Yoshimatsu teach only the transmitting of signals corresponding to the video signals produced by the cameras. The appellant has claimed the additional step of transmitting additional different content along with the camera views for selected

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viewing by the attendees. This step alone makes claim 33 patentable. In addition, the appellant has further claimed another step of charging a rent for the portable display unit that is responsive to the content selected for viewing, i.e. the rent depends upon what the user selects to view. Nothing in the prior art or official notice suggests such a combination of steps. Thus, the rejection of claim 33 is not supported by the prior art and should be withdrawn.

8. CLAIMS APPENDIX - 37 CFR 41.37(c) (1) (viii).

A copy of the claims involved in this appeal is attached as a claims appendix under 37 CFR 41.37(c) (1) (viii).

9. EVIDENCE APPENDIX - 37 CFR 41.37(c) (1) (ix)

None is required under 37 CFR 41.37(c) (1) (ix).

10. RELATED PROCEEDINGS APPENDIX - 37 CFR 41.37(c) (1) (x)

None is required under 37 CFR 41.37(c) (1) (x).

Respectfully submitted,



David G. Maire, Reg. No. 34,865

Beusse Wolter Sanks Mora & Maire, P.A.  
390 North Orange Ave., Suite 2500  
Orlando, FL 32801  
telephone: 407-926-7704

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### APPENDIX OF CLAIMS ON APPEAL

7. A method of providing unaltered live-action remote-viewing entertainment to attendees while at a live event, the method comprising:

providing a plurality of cameras positioned at a plurality of locations within an event for producing a plurality of live-action video signals;

locally transmitting within the event a plurality of live-action wireless communication signals corresponding to the plurality of live-action video signals via a respective plurality of transmitters associated with the plurality of cameras at the event; and

providing to a plurality of attendees at the event a respective plurality of portable display units each containing a multi-channel receiving device and a video display device, the portable display units adapted to be worn or carried by the respective attendees at the event for simultaneously receiving the locally transmitted live-action wireless communication signals directly from the transmitters and for displaying images responsive to a live-action video signal individually selected by each of the respective attendees;

respective attendees individually wearing or carrying the respective portable display units for personal viewing, only while at the event, of selected images corresponding to unaltered live-action views captured by the cameras.

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8. The method of claim 7, further comprising:

providing a pair of cameras placed adjacent to each other at each of the plurality of locations within the event to view the event from two different perspectives for producing a corresponding plurality of depth-perceptive video signals;

locally transmitting live-action wireless communications signals corresponding to the plurality of depth-perceptive video signals via the wireless communications system; and

providing the portable display units with two adjacent video display devices for displaying two different images corresponding to the views of the event from the perspective of the respective cameras for personal viewing by the attendees with true depth perception as would be seen by the attendee from the perspective of the placement of the pair of cameras.

9. The method of claim 7, further comprising offering the portable display units for rent to the attendees for use to enhance views available to the attendees from their respective designated viewing areas to a preferred viewing location during the event.

10. The method of claim 7, further comprising transmitting closed wireless network communications signals corresponding to predetermined content different than the video signals produced by the cameras via the wireless communications system for selected alternative viewing by the attendees while at the event.

11. The method of claim 7, further comprising transmitting wireless communications signals corresponding to advertising content via the wireless communications system for viewing by the attendees while at the event.

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12. An apparatus for providing video information comprising:  
at least one camera adapted for capturing at least one live-action area of an event and for producing at least one respective live-action video signal responsive to the at least one live-action area of the event;  
a transmitter for transmitting at least one live-action wireless communication signal corresponding to the at least one live-action video signal;  
a plurality of personally portable display units each containing a multi-channel receiving device and a video display device for receiving the at least one live-action wireless communication signal directly from the transmitter and for displaying unaltered live-action images responsive to the at least one wireless live-action communication signal for personal viewing of the at least one live-action area by attendees while at the event who are carrying and using a respective personally portable display unit.

13. The apparatus of claim 12, wherein each personally portable display unit comprises a headset for supporting the multi-channel receiving device and the video display device.

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24. A wireless video apparatus comprising:

a pair of video cameras positioned adjacent each other to capture a depth-perceptive view of a scene from two different perspectives corresponding to two eyes of an observer;

a transmitting device connected to each video camera for transmitting a wireless video signal responsive to the view from the perspective of the respective video camera;

a personally portable receiver for receiving the wireless video signals;

a pair of personally portable video display devices connected to the portable receiver and worn or carried by an observer together with the personally portable receiver for cooperatively displaying to two respective eyes of the observer respective images produced from the respective wireless video signals and observable by the observer as a true three dimensional view of the scene as though viewed by the observer from the perspective of the positioned pair of video cameras.

25. The wireless video apparatus of claim 24, further comprising:

a plurality of pairs of cameras, each pair positioned from two different perspectives corresponding to the two eyes of an observer to receive respective depth-perspective views of a plurality of scenes;

a transmitting device connected to each video camera for transmitting a respective wireless video signal responsive to the view from the perspective of the video camera placement;

a personally portable selector transported by the observer with each personally portable receiver for selectively displaying to the two eyes of the observer an unaltered three dimensional view providing true depth perception as though viewed by the observer from the perspective of a selected pair of the cameras.

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26. The personal wireless video apparatus of claim 24, further comprising:
  - a positioning device attached to the pair of cameras for moving the pair of cameras relative to the scene in response to a position signal;
  - a wireless receiver connected to the positioning device and adapted to provide the position signal in response to a wireless view signal;
  - a portable wireless transmitter for transmitting the wireless view signal in response to a position input signal;
  - a portable controller connected to the portable wireless transmitter for producing the position input signal in response to a physical input provided by the observer.

27. A method of providing video information, the method comprising:
  - providing a plurality of cameras at a plurality of locations for producing a plurality of video signals;
  - locally transmitting closed-network wireless communication signals corresponding to the plurality of video signals via a wireless communications system; and
  - providing a personally portable display unit containing a multi-channel receiving device and a video display device, the personally portable display unit adapted for directly and locally receiving the closed-network wireless communication signals and for displaying images responsive to selected ones of the video signals for personal viewing by a person carrying the personally portable display unit.

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28. The method of claim 27, further comprising:

providing a pair of cameras at each of the plurality of locations, each camera of a pair positioned from a different perspective corresponding to a distance between two eyes of an observer for producing a plurality of depth-perceptive video signals;

transmitting closed wireless network communications signals corresponding to the plurality of depth-perceptive video signals via the wireless communications system; and

providing the personally portable display unit with a pair of video display devices for displaying to the two separate eyes of the person carrying the personally portable display unit respective images observable as a three dimensional view with true depth perception as though viewed from the perspective of the respective pair of cameras for personal viewing by the person carrying the personally portable display unit.

29. A wireless video apparatus comprising:

a video camera adapted to be positioned to capture a view of a scene;

a transmitting device connected to the video camera for transmitting a wireless video signal responsive to the view from the perspective of the video camera;

a personally portable receiver for receiving the wireless video signal directly from the transmitting device; and

a personally portable video display device connected to and carried with the personally portable receiver by an observer for displaying to the observer an image responsive to the wireless video signal and corresponding to a view of the scene from the perspective of the camera.

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30. The wireless video apparatus of claim 29, further comprising:

- a plurality of cameras adapted to be positioned to receive respective views of a plurality of scenes;
- a transmitting device connected to each video camera for transmitting a respective wireless video signal responsive to the view from the perspective of the video camera;
- a personally portable selector connected to and carried with the portable receiver for selectively displaying to the observer an image from the perspective of a selected camera.

31. The personal wireless video apparatus of claim 29, further comprising:

- a positioning device attached to the camera for moving the camera relative to a fixed position respective to the scene in response to a position signal;
- a wireless receiver connected to the positioning device and adapted to provide the position signal in response to a wireless view signal;
- a personally portable wireless transmitter for transmitting the wireless view signal in response to a position input signal;
- a personally portable controller connected to and carried with the portable wireless transmitter by the observer for producing the position input signal in response to a physical input provided by the observer.

32. The wireless video apparatus of claim 29, further comprising:

- the video camera comprising a pair of video cameras disposed to capture respective different views of the same scene from two different perspectives corresponding to two eyes of the observer;
- the personally portable video display device comprising a pair of video display devices adapted for displaying to the two eyes of the observer respective images of the scene from the perspective of the pair of spaced apart video cameras to provide the observer with true depth perception of the scene.

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33. The method of claim 7, further comprising:  
transmitting wireless communications signals corresponding to predetermined content different than the video signals via the wireless communications system for selected viewing by the attendees; and  
offering the portable display units for rent to attendees for use during the event at a price responsive to the selected content.

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## EVIDENCE APPENDIX

None.

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RELATED PROCEEDINGS APPENDIX

None.